

**DEPARTMENT OF INSURANCE  
STATE OF CALIFORNIA  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, California 94105**

**RH-01018269**

**December 4, 2001**

**NOTICE OF PROPOSED ACTION AND  
NOTICE OF PUBLIC HEARING**

**SUBJECT OF HEARING**

Notice is hereby given that California Insurance Commissioner Harry W. Low will hold a public hearing on February 8, 2002, at 10:00 a.m., in San Francisco, regarding the proposed adoption of regulations pertaining to privacy of information gathered by entities subject to the regulation of the Commissioner in connection with insurance transactions.

**AUTHORITY AND REFERENCE**

The Insurance Commissioner proposes the adoption of these regulations (Title 10, Sections 2689.1-2689.24 of the California Code of Regulations) pursuant to well settled law that the Commissioner has "broad discretion to adopt rules and regulations as necessary to promote the public welfare." (Calfarm Ins. Co. v. Deukmejian (1989) 48 Cal.3d 805, 824.) and Sections 6801(b) and 6805(b)(2) and 6807 of the Gramm-Leach-Bliley Financial Services Modernization Act (GLBA) (15 U.S.C., Subchapter I). The purpose of these regulations is to implement, interpret, and make specific the provisions of California Insurance Code, Division 1, Part 2, Chapter 1, Article 6.6, Sections 791-791.27 and Gramm-Leach-Bliley Act privacy provisions (15 U.S.C., Subchapter I, Sections 6801-6810), consistent with affording individuals the maximum privacy protections permitted by those laws.

**HEARING DATE AND LOCATION**

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations at the following date, time, and place:

**Date and Time: February 8, 2002 – 10:00 a.m.**

**Location: State Building – First Floor Auditorium  
455 Golden Gate Avenue  
San Francisco, California 94102**

### ACCESS TO HEARING ROOM

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify either of the contact persons (listed below) for this hearing in order to make special arrangements, if necessary.

### WRITTEN AND/OR ORAL COMMENTS: AGENCY CONTACT PERSONS

All persons are invited to submit written comments to the Insurance Commissioner on the proposed regulations. Comments should be addressed to either of the contact persons for this proceeding:

Elizabeth Mohr, Assistant Chief Counsel  
Mary Ann Shulman, Staff Counsel  
California Department of Insurance  
Rate Enforcement Bureau  
45 Fremont Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
[Mohre@insurance.ca.gov](mailto:Mohre@insurance.ca.gov)  
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(415) 538-4112  
(415) 538-4133

All persons are invited to present oral and/or written testimony at the scheduled public hearing.

### DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above **no later than 5:00 p.m. on February 8, 2002**. Any written materials received after that time will not be considered.

**Comments submitted by e-mail will be accepted and considered.**

### QUESTIONS REGARDING REGULATIONS

Questions regarding the regulations should be directed to either of the contact persons listed above.

## INFORMATIVE DIGEST

### SUMMARY OF EXISTING LAW

Existing law, CIC §§ 791-791.27, the Insurance Information and Privacy Protection Act enacted in 1980, establishes standards for the collection, use, and disclosure of information gathered in connection with insurance transactions. This legislation adopted the National Association of Insurance Commissioners' (NAIC) 1982 model legislation, which was developed with state regulators and representatives of industry, producers and consumers to facilitate uniform privacy standards among states.

Concerned with the threat to privacy posed by increased capabilities of computerized information systems, the Legislature recognized that a vast amount of confidential

personal financial and health information is gathered in connection with insurance transactions. The legislative purpose of the Insurance Information and Privacy Protection Act is to balance the legitimate information needs of the insurance industry to conduct the business of insurance with the public's need for fairness in insurance information practices, including the need to minimize intrusiveness.

Existing law, California Civil Code Section 56.265, prohibits certain persons or entities, including insurers, from disclosing individually identifiable information concerning the health of, or medical or genetic history of, a customer for use with regard to the granting of credit.

Effective July 1, 2002, California Civil Code Section 1798.85 (SB 168, Statutes of 2001) prohibits certain persons or entities from using a consumer's social security number in certain ways.

Existing law, Business and Professions Code Sections 17590-17595 (SB 771, Statutes of 2001), prohibits telephone solicitors from calling individuals on a "do not call" list established by the Attorney General not later than January 1, 2003.

Existing federal regulations (45 CFR Parts 160 and 164) implementing the Health Insurance Portability and Accountability Act of 1996<sup>1</sup> establish standards for the use and disclosure of protected health information. Compliance by health insurers is extended to April 14, 2003. These federal regulations permit a state to adopt more stringent privacy standards (Part 160, subpart B).

Existing law, Title V of GLBA (15 U.S.C. Section 6801, et seq.), requires various federal agencies and state insurance authorities to enact regulations respecting the privacy of customers and protecting the security and confidentiality of nonpublic personal information. Federal agencies adopted implementing regulations, establishing July 1, 2001 as the compliance date for financial institutions subject to the jurisdiction of federal regulators. GLBA expressly permits states to enact privacy protections greater than those required by GLBA or by federal regulations.

## **POLICY STATEMENT OVERVIEW**

Currently, there are no regulations that govern the collection, use, disclosure, and safeguarding of information under Sections 791-791.27 of the Insurance Code. The lack of regulations has led to some confusion on the part of licensees regarding their obligations under California and federal law. These proposed regulations are intended to clarify the procedures implementing the privacy protections set forth in the Insurance Code and to comply with the GLBA mandate, consistent with the public policy of providing maximum privacy protection permitted under these laws.

## **Article I: General Provisions**

### **Section 2689.1 Authority and Purpose**

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the collection, use, disclosure, and safeguarding of nonpublic

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<sup>1</sup> P.L. 104-191, Sections 261-264, enacted on August 21, 1996.

personal information gathered in connection with insurance transactions. Section 2689.1 clarifies that these regulations are intended to implement those provisions.

#### Section 2689.2 Scope

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the collection, use, disclosure, and safeguarding of nonpublic personal information gathered in connection with insurance transactions. Section 2689.2 clarifies that these regulations apply to nonpublic personal information, as defined, about policyholders, claimants and beneficiaries of insurance products or services used primarily for personal, family, or household purposes, and sets forth some of the circumstances under which a business policy might be subject to these regulations.

#### Section 2689.3 Duty of Confidentiality and Care

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the collection, use, disclosure, and safeguarding of nonpublic personal information gathered in connection with insurance transactions. Section 2689.3 makes clear that licensees have an affirmative duty to protect the confidentiality of nonpublic personal information consistent with these standards and all other applicable laws regarding the privacy or confidentiality of nonpublic personal information.

#### Section 2689.4 Definitions

CIC §791.04(b) sets forth mandatory standards for the required notice of information practices. 15 U.S.C. Section 6802(b)(1)(A) requires that notices be clear and conspicuous. Existing law does not define “clear and conspicuous.” However, “clear and conspicuous” is defined in the regulations adopted by the applicable federal agencies. Section 2689.4(a) adopts a similar standard, except that this regulation requires that notices be understood by those with an average eighth grade educational level and achieve a minimum Flesch Score of 50.

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes privacy protection standards for nonpublic personal information collected in connection with insurance transactions. Existing law does not define “collect.” However, “collect” is defined in the regulations adopted by applicable federal agencies, and Section 2689.4(b) adopts a similar definition.

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the collection, use, disclosure, and safeguarding of nonpublic personal information gathered about consumers. Although the Insurance Code does not define “consumer,” 15 U.S.C. Section 6809(9) does. Section 2689.4(c) adopts a similar definition except that this regulation includes claimants and beneficiaries as examples of consumers not included in GLBA since the federal law was focused on financial institutions rather than insurance licensees.

CIC §791.04(a) requires that licensees provide notice of information practices to applicants at the time of delivery of the insurance policy and, for policy renewals, within the previous 24 months. 15 U.S.C. Section 6803 requires that notice of information practices be made at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship. Existing law does not

define “customer relationship.” However, federal regulations implementing 15 U.S.C., Subsection I, define “customer relationship” and Section 2689.4(d) adopts a similar standard and provides examples of circumstances in which a consumer is or is not a customer. In light of federal requirements for annual notice to customers, this regulation also adopts the annual requirement, consistent with the public policy of providing maximum privacy protections under these laws.

CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establish standards governing the treatment of nonpublic personal information gathered in connection with insurance transactions. As provided in CIC §791.01, these standards apply to insurance institutions, agents, and insurance-support organizations, as defined in §791.02. Since the Insurance Code focuses on licensees subject to its jurisdiction, it does not define “financial institutions.” However, 15 U.S.C., Subchapter I, imposes privacy obligations on “financial institutions,” including insurers, as defined in Section 6809(3), and Section 2689.4(e) adopts a similar standard. For the same reason, CIC §791.02 does not define “financial product or service.” However, “financial product or service” is defined in the regulations adopted by the applicable federal agencies, and Section 2689.4(f) adopts a similar standard.

Existing law, CIC §§791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes required standards for notice and disclosures of nonpublic personal information to affiliated and nonaffiliated third parties. Although CIC §791.02 defines “affiliated” and “control,” the Insurance Code does not define the counterpart “nonaffiliated third party.” 15 U.S.C. Section 6809 defines “nonaffiliated third party” and “control” and federal regulations expand upon these definitions. Sections 2689.4(g) and (h) of these regulations respectively adopt similar standards for “nonaffiliated third party” and “control.”

CIC §791.02 and 15 U.S.C. Section 6809 define “personal information” but do not define what is public or nonpublic personal information. However, federal regulations adopted by applicable federal agencies define “publicly available information” and Section 2689.4(i) adopts this standard.

## **Article II: Privacy Notices; Opt Out Notices for Financial Information**

### **Section 2689.5 Initial Privacy Notice**

CIC §791.04 sets forth standards for the required notice of information practices. 15 U.S.C. Section 6803 requires delivery of an initial privacy notice at the time a customer relationship is established. Existing law does not contemplate circumstances under which the initial privacy notice may be delivered later than delivery of the insurance policy or after a customer relationship is established. However, federal implementing regulations set forth standards under which an initial privacy notice may be delivered within a reasonable time after a customer relationship is established. Consistent with federal law and regulations, Section 2689.5 adopts similar standards.

### **Section 2689.6 Annual Privacy Notice**

CIC §791.04 provides that a licensee meets requirements for notice of information practices, in the case of a policy renewal, if notice is provided within the previous 24 months. 15 U.S.C. Section 6803 requires a clear and conspicuous notice to a customer

not less than annually, as defined in federal regulations. Since the federal standard of annual notice is stricter, federal law supersedes and Section 2689.6 adopts the annual notice requirement to conform to the federal standard.

#### Section 2689.7 Information to be Included in Privacy Notices

CIC §791.04(b) sets forth general standards for information required in privacy notices. Federal regulations adopted by the applicable federal agencies clarify these information requirements, providing an example of an inadequate categorization of information. Section 2689.7 clarifies information requirements by adopting a similar standard and example. CIC §791.13(a) sets forth standards for written disclosure authorization prior to a licensee's disclosure of nonpublic personal information. Section 2689.7(5) makes clear that written authorization must comply with these standards.

#### Section 2689.8 Form of Opt Out Notice and Opt Out Methods

CIC §791.13 prohibits disclosure of a consumer's nonpublic personal information without prior written authorization as a general rule and sets forth standards for such authorization. CIC §791.13(k) provides an exception, requiring that a consumer be given an opportunity to opt out before nonpublic personal information about the consumer is disclosed to a nonaffiliated third party for marketing purposes. Even if a consumer does not exercise the right to opt out, 15 U.S.C. Section 6802 prohibits the disclosure of an account number. Existing law does not specify opt out procedures. However, federal regulations adopted by applicable federal agencies set forth standards for a clear and conspicuous notice that explains the right to opt out, provided examples of opt out methods, and set forth procedures for handling an opt out direction by joint consumers. Adopting standards similar to federal law and regulations, Section 2689.8 clarifies opt out procedures and information requirements to be used when a licensee is required to provide an opt out notice and specifies what information is prohibited from disclosure even if a consumer does not exercise the right to opt out.

#### Section 2689.9 Revised Privacy Notices

CIC §791.04 sets forth standards for notice of information practices. §791.13(k) requires a licensee to provide an opportunity to opt out before disclosing nonpublic personal information about a consumer to a nonaffiliated third party for marketing purposes. Existing law does not specifically set forth standards for revised privacy notices. However, federal regulations adopted by applicable federal agencies require a clear and conspicuous revised notice that accurately describes a licensee's information policies and practices and provides for a new opt out form to the consumer. Section 2689.9 adopts these standards. Since federal regulations only specify a reasonable opportunity to opt out, Section 2689.9 interprets existing law by giving the consumer 45 days to opt out.

#### Section 2689.10 Delivery of Notices

CIC §791.04 sets forth standards for notice of information practices. Existing law does not specify methods of delivery of notices. However, federal regulations adopted by applicable federal agencies set forth standards of reasonable expectation of delivery and provide examples of both reasonable and unreasonable expectations. Section 2689.10 adopts similar standards and examples.

### **Article III: Limits on Disclosures of Medical Record Information**

#### **Section 2689.11 Disclosure of Medical Record Information**

CIC §791.13 requires a licensee to obtain prior written authorization before disclosing nonpublic personal information, defined in CIC §791.02(s) to include medical record information, subject to certain exceptions. Since 15 U.S.C., Subchapter I, was focused on financial institutions which do not customarily have access to medical record information, GLBA is silent about the treatment of medical record information. Section 2689.11 is intended to make clear the limits on disclosure of medical record information.

### **Article IV: Standards for Safeguarding Nonpublic Personal Information**

#### **Section 2689.12 General Provisions**

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the collection, use, disclosure, and safeguarding of nonpublic personal information gathered in connection with insurance transactions. 15 U.S.C. Sections 6801, 6805(b), and 6807 require the establishment of standards to safeguard nonpublic personal information. Section 2689.12 clarifies that the regulations in this article are intended to set forth procedures to develop and implement administrative, technical, and physical safeguards to ensure the security and confidentiality of nonpublic personal information. The regulations in Article V are similar to the federal regulations promulgated by the applicable federal agencies.

#### **Section 2689.13 Definitions**

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, does not define “customer information systems” or “service provider.” Section 2689.13 defines these terms referenced in the regulations.

#### **Section 2689.14 Information Security Program**

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes broad standards for safeguarding nonpublic personal information, but does not specify the process. Section 2689.14 clarifies the requirements of an information security program

#### **Section 2689.15 Objectives of Information Security Program**

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the collection, use, disclosure, and safeguarding of nonpublic personal information gathered in connection with insurance transactions. 15 U.S.C. Section 6801(b) establishes objectives for an information security program and Section 2689.15 adopts a similar standard.

#### **Section 2689.16 Assess Risk**

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the safeguarding of nonpublic personal information gathered in connection with insurance transactions, but does not specify the process. Section 2689.16 implements the safeguarding process by setting standards to assess the threat of risk to the integrity of customer information and information systems.

#### Section 2689.17 Manage and Control Risk

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the safeguarding of nonpublic personal information gathered in connection with insurance transactions, but does not specify the process. Section 2689.17 implements the safeguarding process by setting standards to manage and control risks to the integrity of customer information and information systems.

#### Section 2689.18 Service Providers

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the safeguarding of nonpublic personal information gathered in connection with insurance transactions, but does not specify the process. Section 2689.18 implements the safeguarding process by setting standards to oversee service providers.

#### Section 2689.19 Adjust the Program

Existing law, CIC §§ 791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establishes standards for the safeguarding of nonpublic personal information gathered in connection with insurance transactions, but does not specify the process. Section 2689.19 implements the safeguarding process by setting standards to monitor and adjust the information security program.

#### Section 2689.20 Enforcement

Existing law, CIC §§791.15, 791.17 and 15 U.S.C. Section 6805(6), authorizes the Insurance Commissioner to enforce the standards prescribed in CIC §§791-791.27 and 15 U.S.C. Subchapter I. Section 2689.20 clarifies that the Insurance Commissioner is responsible for audit compliance and enforcement of these standards and regulations.

### **Article V: Additional Provisions**

#### Section 2689.21 Protection of Fair Credit Reporting Act

CIC §§791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810, establish standards for the collection, use, disclosure and safeguarding of nonpublic personal information, including financial information. Disclosure of certain information may give rise to obligations under the federal Fair Credit Reporting Act (“FCRA”) (15 U.S.C. §§1681 et seq.). 15 U.S.C. Section 6806 expressly provides that GLBA does not modify, limit, or supersede the operation of the FCRA and Section 2689.21 adopts a similar standard.

#### Section 2689.22 Nondiscrimination

CIC §791.13 requires prior written authorization before disclosure of nonpublic personal information, setting forth certain exceptions, including the requirement of an opt out notice to consumers in certain specified circumstances. Existing law does not specify consequences when a consumer does not provide authorization or exercises the option of opting out against disclosure. Section 2689.22 is intended to make clear that a licensee is prohibited from discriminating against such a consumer by denying the consumer an insurance product or service for withholding disclosure authorization.

#### Section 2689.23 Severability

CIC §§791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810 establish standards for the collection, use, disclosure and safeguarding of nonpublic personal information and



these proposed regulations are intended to implement these standards. Section 2689.23 provides for the severability of each section of the regulations.

#### Section 2689.24 Effective Date

CIC §§791-791.27 and 15 U.S.C., Subchapter I, Sections 6801-6810 establish standards for the collection, use, disclosure and safeguarding of nonpublic personal information. Section 2689.24 clarifies that the Insurance Commissioner intends the effective date of these regulations to be 30 days after filing with the Secretary of State.

#### **Appendix A – Sample Clauses**

Appendix A provides sample clauses to assist licensees in drafting privacy notices, explaining a consumer’s right to opt out, and describing its practices to protect the confidentiality and security of customer information.

#### **COMPARABLE FEDERAL LAW**

15 U.S.C. Section 6807 specifically authorizes states to provide greater privacy protections than GLBA. Therefore, the proposed regulations differ from the existing privacy provisions of GLBA (15 U.S.C., Subchapter I, Sections 6801-6810) in the following respects:

- 1) Section 2689.8 requires a California-specific opt-out and consent authorization form; GLBA simply lists what must be included in an opt-out form (15 U.S.C., Subchapter I, Section 6802)
- 2) As required by CIC 791.09, Section 2689.7 requires a licensee to make the nonpublic personal information it collects about a consumer available to the consumer with the right to request correction of inaccurate information; GLBA does not.
- 3) Section 2689.7 requires a description of the purpose for which nonpublic personal information is collected and disclosed as well as the source of the information in its notice requirements; GLBA does not (15 U.S.C., Subchapter I, Section 6803). However, the federal regulations provide that a financial institution adequately categorizes nonpublic personal information it collects and discloses if it categorizes the information according to source, and, in the case of disclosures, provides illustrative examples of the content of the information. (12 CFR Section 40.6(c)).
- 4) The proposed regulations expressly govern the treatment of nonpublic personal information about not only policyholders but also claimants and beneficiaries. Because GLBA’s focus was on financial institutions, not insurers, GLBA is silent and simply defines a “consumer” as an individual who obtains a financial product or service used primarily for personal, family, or household purposes. (15 U.S.C., Subchapter I, Section 6809(9)).
- 5) Sections 2689.1-2689.24 govern the treatment of medical record information; because financial institutions typically do not have medical information, GLBA does not. (15 U.S.C., Subchapter I, Section 6809(4)).

#### **PRE-NOTICE PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

Pursuant to California Government Code Section 11346.45, the Insurance Commissioner has not circulated this regulatory language prior to publication of this Notice because the proposed regulations do not involve a complex subject, the regulations can easily be reviewed during the comment period, and recently there has been significant public participation on the subject matter of these regulations. Over the past year, persons

interested in the substance of these regulations have provided input to the National Association of Insurance Commissioners (NAIC) and to the Department regarding the substance of these regulations. The Department has followed the legislative debate regarding recent privacy legislation. That input has been considered in the drafting of these regulations. California has a long tradition of strict privacy protections. Californian's constitutional right to privacy was recognized in 1972. CIC §§791-791.27 was enacted more than 20 years ago. Numerous other California laws provide privacy protections for California residents. Arguments for and against privacy safeguards regarding the collection and use of personal information have been extensively debated. Moreover, the Commissioner has obtained considerable input, from all affected parties, as to suggested courses of action in light of passage of GLBA.

#### LOCAL MANDATE DETERMINATION

The Insurance Commissioner has initially determined that the proposed regulations will not result in any new program mandates on local agencies or school districts.

#### COST OR SAVINGS TO STATE AGENCIES

The Insurance Commissioner has initially determined that the proposed regulations do not impose any cost on or result in any savings to any state agency.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS/FEDERAL FUNDING

The Insurance Commissioner has initially determined that the proposed regulations will not result in any cost to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement. Nor will the proposal affect federal funding to the state.

#### NONDISCRETIONARY COSTS OR SAVINGS TO LOCAL AGENCIES

The Insurance Commissioner has initially determined that the proposed regulations do not impose other nondiscretionary costs or savings on local agencies

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Insurance Commissioner has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Insurance Commissioner has further determined that the adoption of these regulations will have no effect on the creation or elimination of jobs in California, the creation of new businesses or the elimination of existing businesses in California, and will have no effect on the expansion of businesses in California.

#### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by them. The regulations propose a specific opt-out form to minimize customer confusion and maximize consumer protection. At this time, the Insurance Commissioner expects that any cost impact that a

representative private person or business would necessarily incur in reasonable compliance with the proposed action would be minimal.

#### SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposal would not mandate the use of specific technologies or equipment.

#### IMPACT ON HOUSING COSTS

The Insurance Commissioner has initially determined that the proposed regulations will not affect housing costs.

#### IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has initially determined that the proposed regulations will not have a significant effect on small businesses because they are already required to comply with similar federal requirements of the Gramm-Leach-Bliley Act.

#### ALTERNATIVES

The Insurance Commissioner must determine that no alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The proposed regulations adopt the same standards established by federal regulators and the National Association of Insurance Commissioners (NAIC), after due consideration of many alternatives, to the extent consistent with providing consumers the maximum privacy protections permitted under the law.

The agency invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Those technical terms are defined in plain English.

#### AVAILABILITY OF TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons which sets forth the reasons for the regulations. The Initial Statement of Reasons, together with the text of the proposed regulations, and this Notice of Proposed Action are available for inspection or will be provided at no charge upon request to a contact person listed above.

#### ACCESS TO COPIES OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

Any interested person may inspect a copy of or direct questions about the proposed regulations, the statement of reasons, the information upon which the proposal is based, and any supplemental information contained in the rulemaking file by contacting either of

the contact persons listed above. By prior appointment, the rulemaking file is available for inspection at 45 Fremont Street, 21<sup>st</sup> Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m. Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, which contains the general substance of the proposed regulations, the Initial Statement of Reasons, and the text of the proposed regulations will automatically be sent to all persons on the Insurance Commissioner's mailing list.

## AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the regulations adopted by the Department differ from but are sufficiently related to the original text, the Department will make the modified text available to the public for at least 15 days prior to the date of adoption.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, a copy of the Final statement of Reasons may be obtained by contacting a contact person listed above.

## AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Initial Statement of Reasons, the text of the proposed regulations, and this Notice of Proposed Action will be published online and may be accessed through the Department's website at [www.insurance.ca.gov](http://www.insurance.ca.gov).

**HARRY W. LOW**  
Insurance Commissioner

By:           /s/